
TITLE 328 UNDERGROUND STORAGE TANK FINANCIAL ASSURANCE BOARD

NOTICE OF READOPTION
IC 13-14-9.5 FIRST NOTICE OF COMMENT PERIOD
LSA Document #16-142

READOPTED OF RULES IN TITLE 328 UNDER IC 13-14-9.5**PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on the readoption of rules in Title 328 of the Indiana Administrative Code under IC 13-14-9.5.

RULES TO BE READOPTED:

<u>328 IAC 1-3-1.3</u>	Cost effectiveness of corrective action
<u>328 IAC 1-3-1.6</u>	Preapproval of work
<u>328 IAC 1-3-2</u>	Fund disbursement
<u>328 IAC 1-3-6</u>	Limitation of liability
<u>328 IAC 1-4-4</u>	Monthly reimbursement
<u>328 IAC 1-5-3</u>	Deemed approved; reimbursement of costs

RULES TO EXPIRE: None.

AUTHORITY: IC 13-14-9.5.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

This rulemaking is required under IC 13-14-9.5, which provides for the expiration and readoption of administrative rules. All rules adopted after January 1, 2002, under IC 13-14-9, expire on January 1 of the seventh year after the year in which each rule takes effect. The rules listed to be readopted have an expiration date of January 1, 2017. IDEM has chosen to readopt all affected rules at one time rather than readopt each rule separately as its expiration date approaches.

Under IC 13-14-9.5-4, the department or board that has rulemaking authority under Title 13 may readopt all rules subject to expiration under one rule that lists all rules that are readopted by their titles and subtitles only. If no comments are received during this first comment period, IDEM may submit the rule for filing with the Publisher under IC 4-22-2-35 and publish notice in the Indiana Register that the agency has readopted the rule.

Please note that a first notice of comment period to update these rules was published on July 29, 2015 (LSA Document #15-231). Due to proposed legislative changes to the program that ensued after that publication, IDEM made the decision to wait on drafting language changes until after the passage of the proposed changes. Senate Enrolled Act 255 containing those changes was passed in the 2016 Session of the Indiana General Assembly. IDEM intends to incorporate those changes into the second notice of comment period for LSA Document #15-231. However, as that rulemaking will not be completed and effective by the sunset date of the rules subject to this notice, IDEM has chosen to readopt the existing rules in this sunset rulemaking. Readoption via the sunset process will not affect the substantive changes that will occur in the open rulemaking under LSA Document #15-231. It will simply allow the rules to remain in the same form in which they currently exist until such time as the substantive rulemaking is completed through the regular IC 13-14-9 rulemaking process.

STATUTORY AND REGULATORY REQUIREMENTS

IC 13-14-9.5-4 requires that the following procedure be followed to readopt rules:

- (1) A notice listing all rules to be readopted by their titles and subtitles shall be submitted to the Publisher for publication in the Indiana Register.
- (2) If a person submits a written request and a basis for the request during the first comment period that a particular rule be readopted separately from the readoption rule that readopts all rules in one rulemaking, the agency must:
 - (A) readopt that rule separately from the readoption rule; and
 - (B) follow the procedure for adoption of administrative rules under IC 13-14-9 with respect to that rule.
- (3) If no written request is provided within the first comment period, the agency may submit the rule for filing with the Publisher under IC 4-22-2-35 and publish notice in the Indiana Register that the agency has readopted the rule.

REQUEST FOR PUBLIC COMMENTS

IDEM requests that any written comments requesting that a rule be readopted separately from this

readoption rule include a basis for the request. Comments may be submitted in one of the following ways:

- (1) By mail or common carrier to the following address:
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Dan Watts
Rules Development Branch
Office of Legal Counsel
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, IN 46204

- (2) By facsimile to (317) 233-5970. Please confirm the timely receipt of faxed comments by calling the Rules Development Branch at (317) 232-8922.

- (3) By electronic mail to dwatts1@idem.in.gov. To confirm timely delivery of submitted comments, please request a document receipt when sending the electronic mail. **PLEASE NOTE: Electronic mail comments will NOT be considered part of the official written comment period unless they are sent to the email address indicated in this notice.**

- (4) Hand delivered to the receptionist on duty at the thirteenth floor reception desk, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, Indiana.

Regardless of the delivery method used, in order to properly identify each comment with the rulemaking action it is intended to address, each comment document must clearly specify the LSA document number of the rulemaking.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or time stamped not later than May 13, 2016. Hand-delivered comments must be delivered to the office by 4:45 p.m. on the above-listed deadline date.

Additional information regarding this action may be obtained from Dan Watts, Rules Development Branch, Office of Legal Counsel, (317) 234-5345 or (800) 451-6027 (in Indiana).

Nancy King, Chief
Rules Development Branch
Office of Legal Counsel

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